Assessment Year 1990-91

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No.517 of 2001

The commissioner of Income-tax
Dehradun and another
…….. Appellants

Versus

M/s Saipem S.P.A.
C/o M/s Arther Anderson & company
66 Marker Towers, F. Curre Road
Bombay – 400 005.
……. Respondent

Mr. S.K. Posti, learned counsel for the appellants.
Ms. Krishi Shukla, learned counsel for the respondent.

Coram : Hon'ble P.C. Verma, J.
Hon'ble P. C. Pant, J.

This is an appeal preferred under Section 260A of the Income tax Act, 1961 filed by the Revenue against the judgment and order dated 26.02.2001 passed by the Income Tax Appellate Tribunal, New Delhi in I.T.A. No. 321/Del/95.

2) M/s Saipem S.P.A., respondent is a Company incorporated in Italy. In the year under consideration, it had been executing a drilling contract for O.N.G.C.

3) The substantial questions of law as framed in the appeal are as follows:

1. *"Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was not legally justified in upholding that free accommodation facility provided by the employer to its employee on board the rig in high seas cannot be construed to be perquisite.*

2. *Whether, on the facts and in the circumstances of the case, the learned I.T.A.T. was not legally justified in holding that no perquisite arose on account of free accommodation facility provided by the employer to its employee and the Assessment Authority was not justified in charging interest u/s 201 (1A) of the Income Tax Act?"*

4) Heard learned counsel for the parties and perused the record.

5) As this Court has discussed in Income Tax Appeal No. 57 of 2002, in the case of Commissioner of Income-tax and another Vs. Sedco Forex International Drilling Co. Ltd. decided on 9th October, 2003; the reasoning regarding these questions are given as under:

In this case, assessee had to work on the rig. It was hazardous, arduous and continuous. Under such circumstances free accommodation, food and beverages is a necessity. It is not a luxury. It is not a perquisite. Its value cannot be added to the income of the assessee. Therefore, the Department cannot levy interest on the employer under Section 201/ 201 (1A) of the Income-tax Act.

6) In view of the above discussion, the above questions of law are answered in the affirmative i.e. in favour of the assessee and against the Department.

7) The Appeal is dismissed accordingly. No order as to costs.

(P.C. Pant, J.) **(P.C. Verma, J.)**

Dt. 16th July, 2005.
H.Negi